

IN THE

Supreme Court of the United States

October Term, 1943.

No. 968

WARNER'S RENOWNED REMEDIES COMPANY,
(a Minnesota Corporation),

Petitioner,

v.

FEDERAL TRADE COMMISSION,

Respondent.

**PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA AND BRIEF
IN SUPPORT THEREOF.**

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**PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA.**

*To the Honorable, The Chief Justice and The Associate
Justices of the Supreme Court of the United States:*

Warner's Renowned Remedies Company respectfully prays that a Writ of Certiorari issue to review the decree of the United States Court of Appeals for the District of Columbia, rendered February 5, 1944. The opinion of the lower court appears on page 273 of the Record and is reported in 140 Fed. (2d) 18.

Statement of the Case.

The order of the Federal Trade Commission entered in this case, which was affirmed by the Court of Appeals for

the District of Columbia, followed proceedings authorized by the Federal Trade Commission Act, including Complaint, the taking of testimony in various cities before a Trial Examiner, the filing of briefs and final argument before the Commission. Petitioner, Warner's Renowned Remedies Company, is a corporation organized and doing business under the laws of the State of Minnesota with its principal office and place of business located at Minneapolis, Minnesota. It is engaged in the sale and distribution of various medicinal preparations, including those referred to in the finding and order of the Commission. The main question involved in the proceedings before the Commission was whether the claims made as to the value of the treatment in cases of functional sterility were false or misleading and therefore unfair. Collateral questions involved were as to the truth or falsity of the description of the manner in which the treatment works and the anatomy and physiology of the female reproduction system and claims as to the relief of certain symptoms. The issues were entirely of a medical nature and were determined by the Commission solely upon the expert testimony adduced.

The treatment sold by the petitioner for use when functional sterility exists is composed of a combination of medicinal drugs termed "Prescription Number Six," a laxative pill and an alkalizing hot douche. The formula for Prescription No. 6 is as follows:

Viburnum Pruniflorous	1 Gr.	(0.064 grams)
Ferrous Sulphate	5 Gr.	(0.3240 grams)
Ovarian Substance Dessicated.	1 Gr.	(0.048 grams)
Powd. Gentian	1 Gr.	(0.848 grams)
P. E. Nux Vomica	$\frac{1}{8}$ Gr.	(0.0081 grams)
Vitamin E. Conc	$\frac{1}{4}$ Min.	(0.01509 grams)

The laxative pill consists of $\frac{1}{4}$ Grain of cascarn, podophyllin $\frac{1}{4}$ Grain, aloin $\frac{1}{4}$ Grain.

The only ingredient of the douche is sodium bicarbonate, 10 Grains.

Questions Presented.

1. Whether the Court below was justified in affirming the order of the Federal Trade Commission prohibiting Respondent (Petitioner here) from claiming that the preparations sold by it, either singly or in combination, have any therapeutic value in the treatment of any form of sterility, or in promoting or aiding the functioning of the female reproductive organs.

2. Whether the Court below was justified in holding that there was ample testimony in the case to support the Commission's Order.

3. Whether the Federal Trade Commission may prohibit the expression of medical opinion clearly shown by the testimony in the case and by the findings to be undetermined or undeterminable as true or false at the present time, but which has the opinion of qualified medical men to support it.

Reason for Granting of a Writ of Certiorari.

The Circuit Court of Appeals has decided an important question of Federal law in a decision which is untenable and contrary to the weight of authority and applicable decisions of this Court.

For the reasons above outlined your petitioner prays that a Writ of Certiorari issue to the United States Court of Appeals for the District of Columbia.

Respectfully submitted,

HORACE J. DONNELLY, JR.,
Counsel for Petitioner.